

APPEAL

United States District Court
District of Massachusetts (Boston)
CIVIL DOCKET FOR CASE #: 1:04-cv-11531-RGS

Fafard Real Estate & Development Corporation v.
Metro-Boston Broadcasting, Incorporated
Assigned to: Judge Richard G. Stearns
Cause: 28 1331(a) Fed. Question: Real Property

Date Filed: 07/08/2004
Jury Demand: Defendant
Nature of Suit: 290 Real Property:
Other
Jurisdiction: Diversity

Plaintiff

**Fafard Real Estate &
Development Corporation**

represented by **Halye A. Sugarman**
Hanify & King
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ATTORNEY TO BE NOTICED

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ATTORNEY TO BE NOTICED

V.

Defendant

**Metro-Boston Broadcasting,
Incorporated**

represented by **Kenneth R. Berman**
Nutter, McClennen & Fish, LLP
World Trade Center West
155 Seaport Boulevard
Boston, MA 02210-2699

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Counter Claimant

**Metro-Boston Broadcasting,
 Incorporated**

V.

Counter Defendant

**Fafard Real Estate &
 Development Corporation**

represented by **Halye A. Sugarman**
 (See above for address)
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
07/08/2004	<u>1</u>	NOTICE OF REMOVAL by Metro-Boston Broadcasting, Incorporated from Middlesex, case number 04-2282. \$ 150, receipt number 57095, filed by Metro-Boston Broadcasting, Incorporated.(Flaherty, Elaine) (Entered: 07/13/2004)
07/08/2004	2	If the trial Judge issues an Order of Reference of any matter in this case to a Magistrate Judge, the matter will be transmitted to Magistrate Judge Bowler. (Flaherty, Elaine) (Entered: 07/13/2004)
07/15/2004	<u>2</u>	MOTION endorsement of lis pendens by Fafard Real Estate & Development Corporation.(Flaherty, Elaine) (Entered: 07/19/2004)

07/15/2004	<u>3</u>	Special MOTION to Dismiss by Metro-Boston Broadcasting, Incorporated.(Flaherty, Elaine) (Entered: 07/19/2004)
07/15/2004	<u>4</u>	MEMORANDUM in Support re <u>3</u> MOTION to Dismiss and in opposition to plaintiff's motion to endorse lis pendens filed by Metro-Boston Broadcasting, Incorporated. (Flaherty, Elaine) (Entered: 07/19/2004)
07/16/2004	<u>6</u>	STATE COURT Record Metro-Boston Broadcasting, Incorporated (Flaherty, Elaine) (Entered: 07/19/2004)
07/19/2004	<u>5</u>	AFFIDAVIT of Kenneth Berman by Metro-Boston Broadcasting, Incorporated in support of motion to dismiss. (Flaherty, Elaine) (Entered: 07/19/2004)
07/19/2004	<u>7</u>	Judge Richard G. Stearns : Endorsed ORDER entered denying <u>2</u> Motion lis pendens "Denied without prejudice. Plaintiff will have fifteen (15) days to show cause why the special motion to dismiss should not be all allowed." (Flaherty, Elaine) (Entered: 07/20/2004)
07/20/2004	<u>7</u>	Opposition re <u>3</u> MOTION to Dismiss filed by Fafard Real Estate & Development Corporation. (Flaherty, Elaine) (Entered: 07/21/2004)
07/26/2004	<u>8</u>	MOTION for Leave to File reply memo by Metro-Boston Broadcasting, Incorporated.(Flaherty, Elaine) (Entered: 07/27/2004)
07/27/2004	<u>8</u>	Judge Richard G. Stearns : Endorsed ORDER entered granting <u>8</u> Motion for Leave to File (Flaherty, Elaine) (Entered: 07/27/2004)
08/02/2004	<u>11</u>	Reply MEMORANDUM in Support re <u>3</u> MOTION to Dismiss filed by Metro-Boston Broadcasting, Incorporated. (Flaherty, Elaine) (Entered: 08/04/2004)
08/03/2004	<u>9</u>	Supplemental MEMORANDUM in Opposition re <u>3</u> MOTION to Dismiss filed by Fafard Real Estate & Development Corporation. (Upton, Jeffrey) (Entered: 08/03/2004)
08/03/2004	<u>10</u>	AFFIDAVIT in Opposition to Metro Boston's Special Motion to Dismiss. (Attachments: # <u>1</u> Exhibit Ex. 1 to Hannert Affidavit# <u>2</u> Exhibit Ex. 2 to Hannert Affidavit# <u>3</u> Exhibit Ex. 3 Hannert Affidavit)(Upton, Jeffrey) (Entered: 08/03/2004)
08/10/2004	<u>12</u>	Judge Richard G. Stearns : ORDER entered denying <u>3</u> Motion to Dismiss (Flaherty, Elaine) (Entered: 08/10/2004)

08/17/2004	<u>13</u>	MOTION for Lis Pendens by Fafard Real Estate & Development Corporation. (Attachments: # <u>1</u>)(Sugarman, Halye) (Entered: 08/17/2004)
08/20/2004	<u>14</u>	MOTION for Reconsideration re <u>12</u> Order on Motion to Dismiss by Metro-Boston Broadcasting, Incorporated. (Flaherty, Elaine) (Entered: 08/23/2004)
08/24/2004		Judge Richard G. Stearns : Endorsed ORDER entered granting <u>13</u> Motion for Lis Pendens (Flaherty, Elaine) (Entered: 08/24/2004)
08/24/2004	<u>15</u>	Judge Richard G. Stearns : ORDER entered Lis Pendens by Fafard Real Estate & Development Corporation (Flaherty, Elaine) Additional attachment(s) added on 9/1/2004 (Flaherty, Elaine). (Entered: 08/24/2004)
08/24/2004	<u>16</u>	ANSWER to Complaint with Jury Demand, COUNTERCLAIM against Fafard Real Estate & Development Corporation by Metro-Boston Broadcasting, Incorporated. (Flaherty, Elaine) (Entered: 08/25/2004)
08/25/2004	<u>18</u>	MOTION dissolve lis pendens by Metro-Boston Broadcasting, Incorporated.(Flaherty, Elaine) (Entered: 08/31/2004)
08/25/2004	<u>19</u>	MEMORANDUM in Support re <u>18</u> MOTION dissolve lis pendens filed by Metro-Boston Broadcasting, Incorporated. (Flaherty, Elaine) (Entered: 08/31/2004)
08/25/2004	<u>20</u>	NOTICE of correction by Metro-Boston Broadcasting, Incorporated re <u>18</u> MOTION dissolve lis pendens (Flaherty, Elaine) (Entered: 08/31/2004)
08/27/2004	<u>17</u>	MOTION to Amend Order on Motion for Lis Pendens, <u>15</u> Lis Pendens by Fafard Real Estate & Development Corporation. (Attachments: # <u>1</u>)(Sugarman, Halye) (Entered: 08/27/2004)
08/31/2004	<u>21</u>	Opposition re <u>17</u> MOTION to Amend Order on Motion for Lis Pendens, <u>15</u> Lis Pendens filed by Metro-Boston Broadcasting, Incorporated. (Flaherty, Elaine) (Entered: 09/01/2004)
09/03/2004	<u>22</u>	Opposition re <u>18</u> MOTION dissolve lis pendens, <u>14</u> MOTION for Reconsideration re <u>12</u> Order on Motion to Dismiss filed by Fafard Real Estate & Development Corporation. (Attachments: # <u>1</u>)(Sugarman, Halye) (Entered: 09/03/2004)
09/13/2004	<u>23</u>	MOTION to Dismiss <i>Counterclaim</i> by Fafard Real Estate & Development Corporation.(Sugarman, Halye) (Entered: 09/13/2004)

		09/13/2004)
09/13/2004	24	MEMORANDUM in Support re <u>23</u> MOTION to Dismiss <i>Counterclaim</i> filed by Fafard Real Estate & Development Corporation. (Attachments: # <u>1</u> # <u>2</u> # <u>3</u> # <u>4</u>)(Sugarman, Halye) (Entered: 09/13/2004)
09/20/2004	25	NOTICE of Hearing on Motion <u>14</u> MOTION for Reconsideration re <u>12</u> Order on Motion to Dismiss, <u>17</u> MOTION to Amend Order on Motion for Lis Pendens, <u>15</u> Lis Pendens, <u>23</u> MOTION to Dismiss <i>Counterclaim</i> : Motion Hearing set for 11/17/2004 03:00 PM in Courtroom 21 before Judge Richard G. Stearns. (Johnson, Mary) (Entered: 09/20/2004)
09/24/2004	26	Assented to MOTION for Extension of Time to 10/12/04 to oppose motion to dismiss counterclaim by Metro-Boston Broadcasting, Incorporated.(Flaherty, Elaine) (Entered: 09/27/2004)
09/27/2004		Judge Richard G. Stearns : Endorsed ORDER entered granting <u>26</u> Motion for Extension of Time (Flaherty, Elaine) (Entered: 09/30/2004)
10/14/2004	27	Opposition re <u>23</u> MOTION to Dismiss <i>Counterclaim</i> filed by Metro-Boston Broadcasting, Incorporated. (Flaherty, Elaine) (Entered: 10/18/2004)
11/18/2004		Clerk's Notes for proceedings held before Judge Richard G. Stearns : Motion Hearing held on 11/17/2004 re <u>23</u> MOTION to Dismiss <i>Counterclaim</i> filed by Fafard Real Estate & Development Corporation, <u>18</u> MOTION dissolve lis pendens filed by Metro-Boston Broadcasting, Incorporated, <u>14</u> MOTION for Reconsideration re <u>12</u> Order on Motion to Dismiss filed by Metro-Boston Broadcasting, Incorporated, <u>17</u> MOTION to Amend Order on Motion for Lis Pendens, <u>15</u> Lis Pendens filed by Fafard Real Estate & Development Corporation. Jeffrey Upton and Halye Sugarman appeared for Fafard; Kenneth Berman appeared for Metro-Boston. After hearing, the matter was taken under advisement. After hearing the court established the following Rule 16(b) pretrial schedule. Initial disclosures by December 3, 2004; Discovery to close 2 weeks prior to trial; Trial tentatively scheduled for February 14, 2005 at 9:00 a.m. Trial Order to follow. (Court Reporter James Gibbons.) (Zierk, Marsha) (Entered: 11/18/2004)

		11/18/2004)
11/24/2004	228	Judge Richard G. Stearns : ORDER entered. MEMORANDUM AND ORDER ON DEFENDANT'S MOTION TO RECONSIDER SPECIAL MOTION TO DISMISS AND OTHER MOTIONS, entered.(Johnson, Mary) Modified on 11/24/2004 (Johnson, Mary). (Entered: 11/24/2004)
12/13/2004	30	Judge Richard G. Stearns : ORDER entered Lis Pendens by Fafard Real Estate & Development Corporation (Flaherty, Elaine) (Entered: 12/29/2004)
12/15/2004	29	Judge Richard G. Stearns : ORDER entered. PROCEDURAL ORDER re pretrial/trial. Final Pretrial Conference set for 2/10/2005 03:45 PM in Courtroom 21 before Judge Richard G. Stearns. Jury Trial set for 2/14/2005 09:00 AM in Courtroom 21 before Judge Richard G. Stearns.(Johnson, Mary) (Entered: 12/15/2004)
01/18/2005	31	Judge Richard G. Stearns : ORDER entered. STIPULATED PROTECTIVE ORDER(Flaherty, Elaine) (Entered: 01/19/2005)
01/19/2005	32	ANSWER to Counterclaim by Fafard Real Estate & Development Corporation.(Sugarman, Halye) (Entered: 01/19/2005)
02/01/2005	42	AFFIDAVIT of Mary Halcomb (corrected) by Metro-Boston Broadcasting, Incorporated. (Flaherty, Elaine) (Entered: 02/10/2005)
02/02/2005	33	MOTION to Bifurcate <i>and Hold Separate Trials</i> by Fafard Real Estate & Development Corporation.(Sugarman, Halye) (Entered: 02/02/2005)
02/02/2005	34	MEMORANDUM in Support re 33 MOTION to Bifurcate <i>and Hold Separate Trials</i> filed by Fafard Real Estate & Development Corporation. (Sugarman, Halye) (Entered: 02/02/2005)
02/04/2005	43	First MOTION to Amend 16 Answer to Complaint, Counterclaim by Metro-Boston Broadcasting, Incorporated. (Flaherty, Elaine) (Entered: 02/10/2005)
02/07/2005	35	TRIAL BRIEF by Fafard Real Estate & Development Corporation, Metro-Boston Broadcasting, Incorporated,

		Metro-Boston Broadcasting, Incorporated, Fafard Real Estate & Development Corporation. (Sugarman, Halye) (Entered: 02/07/2005)
02/07/2005	36	MOTION in Limine <i>to Exclude Evidence as to Damages on Counterclaims</i> by Fafard Real Estate & Development Corporation.(Sugarman, Halye) (Entered: 02/07/2005)
02/07/2005	37	MOTION to Sever and opposition to plaintiff's motion for separate trial by Metro-Boston Broadcasting, Incorporated. (Flaherty, Elaine) (Entered: 02/08/2005)
02/07/2005	38	MOTION in Limine by Fafard Real Estate & Development Corporation. (Attachments: # <u>1</u> # <u>2</u>)(Flaherty, Elaine) (Entered: 02/09/2005)
02/09/2005		Judge Richard G. Stearns : Electronic ORDER entered granting <u>37</u> Motion to Sever (Flaherty, Elaine) (Entered: 02/10/2005)
02/09/2005		Judge Richard G. Stearns : Electronic ORDER entered finding as moot <u>33</u> Motion to Bifurcate (Flaherty, Elaine) (Entered: 02/10/2005)
02/09/2005	39	Defendant's correction to trial memorandum, filed. (Flaherty, Elaine) (Entered: 02/10/2005)
02/09/2005	40	MOTION to Amend <u>16</u> Answer to Complaint by Metro-Boston Broadcasting, Incorporated.(Flaherty, Elaine) (Entered: 02/10/2005)
02/09/2005	41	Opposition re <u>36</u> MOTION in Limine <i>to Exclude Evidence as to Damages on Counterclaims</i> filed by Metro-Boston Broadcasting, Incorporated. (Flaherty, Elaine) (Entered: 02/10/2005)
02/11/2005		Notice of correction to docket made by Court staff. The rulings made by the Court on 2-9-05 in the instant case are hereby corrected as follows: Motion #33 - ALLOWED (as of 2-11-05) (it had previously been declared moot by the Court on 2-9-05); Motion #37 - DENIED (as of 2-11-05) (it has previously been allowed in error by the Court on 2-9-05). The Non-Jury trial on Fafard's claim for specific performance will commence on Monday, February 14, 2005 at 9:30 a.m. in Courtroom #21. Mary Johnson, Deputy Clerk to Stearns, DJ. (Johnson, Mary) . (Entered: 02/11/2005)

02/11/2005	44	NOTICE by Fafard Real Estate & Development Corporation re 36 MOTION in Limine to <i>Exclude Evidence as to Damages on Counterclaims</i> (Flaherty, Elaine) (Entered: 02/22/2005)
02/14/2005		Judge Richard G. Stearns : Electronic ORDER entered granting 40 Motion to Amend, granting 43 Motion to Amend (Flaherty, Elaine) (Entered: 02/16/2005)
02/14/2005		Electronic Clerk's Notes for proceedings held before Judge Richard G. Stearns : Bench Trial held on 2/14/2005, Day 1, on Fafard's claim for specific performance. Attys. Sugarman and Upton present for the pltf. Attys. Berman and Bartenhagen present for the deft. Pltf's opening. Deft's opening. P-1 sworn. Direct. Cross. Re-direct. Re-cross. Excused. P-2 sworn. Direct. Adjourn 1:15 p.m. (Court Reporter James Gibbons.) (Johnson, Mary) . (Entered: 02/23/2005)
02/15/2005		Electronic Clerk's Notes for proceedings held before Judge Richard G. Stearns : Bench Trial held on 2/15/2005, Day 2. Direct of P-2 continues. Cross. Re-direct. Re-cross. Excused. Adjourn 1:00 p.m. (Court Reporter James Gibbons.) (Johnson, Mary). (Entered: 02/23/2005)
02/22/2005		Motions terminated: 36 MOTION in Limine to <i>Exclude Evidence as to Damages on Counterclaims</i> filed by Fafard Real Estate & Development Corporation,. withdrawn by counsel (Flaherty, Elaine) (Entered: 02/22/2005)
02/22/2005		Electronic Clerk's Notes for proceedings held before Judge Richard G. Stearns : Bench Trial held on 2/22/2005, Day 3. P-3 sworn. Direct. Cross. Excused. P-4 sworn. Direct. Cross. Excused. Adjourn 1:10 p.m. (Court Reporter James Gibbons.) (Johnson, Mary) . (Entered: 02/23/2005)
02/23/2005		Electronic Clerk's Notes for proceedings held before Judge Richard G. Stearns : Bench Trial held on 2/23/2005, Day 4. Pltf. reads interrogatory response into the record. Pltf. rests. D-1 sworn. Direct. Cross. Excused. Deft. re-calls P-3 to the stand for direct. No cross. Excused. Deft. rests. Counsel shall file Proposed Findings of Fact and Conclusions of Law within next 14 days. Upon receipt of said pleadings, counsel will be notified of a "final argument" date before the Court. (Court Reporter James Gibbons.) (Johnson, Mary) Modified on 2/23/2005 (Johnson, Mary). (Entered: 02/23/2005)
03/16/2005	45	TRANSCRIPT of Bench Trial Day One held on February 14,

		2005 before Judge Stearns. Court Reporter: James P. Gibbons. The original transcripts are maintained in the case file in the Clerk's Office. Copies may be obtained by contacting the court reporter at 617/428-0402 or the Clerk's Office. (Scalfani, Deborah) (Entered: 03/16/2005)
03/16/2005	<u>46</u>	TRANSCRIPT of Bench Trial Day Two held on February 15, 2005 before Judge Stearns. Court Reporter: James P. Gibbons. The original transcripts are maintained in the case file in the Clerk's Office. Copies may be obtained by contacting the court reporter at 617/428-0402 or the Clerk's Office. (Scalfani, Deborah) (Entered: 03/16/2005)
03/16/2005	<u>47</u>	TRANSCRIPT of Bench Trial Day Three held on February 22, 2005 before Judge Stearns. Court Reporter: James P. Gibbons. The original transcripts are maintained in the case file in the Clerk's Office. Copies may be obtained by contacting the court reporter at 617/428-0402 or the Clerk's Office. (Scalfani, Deborah) (Entered: 03/16/2005)
03/16/2005	<u>48</u>	TRANSCRIPT of Bench Trial Day Four held on February 23, 2005 before Judge Stearns. Court Reporter: James P. Gibbons. The original transcripts are maintained in the case file in the Clerk's Office. Copies may be obtained by contacting the court reporter at 617/428-0402 or the Clerk's Office. (Scalfani, Deborah) (Entered: 03/16/2005)
03/31/2005	<u>49</u>	Assented to MOTION for Extension of Time to April 4, 2005 to serve proposed findings of fact and rulings of law by Metro-Boston Broadcasting, Incorporated, Metro-Boston Broadcasting, Incorporated.(Bartenhagen, Erik) (Entered: 03/31/2005)
04/04/2005	<u>50</u>	Proposed Findings of Fact by Fafard Real Estate & Development Corporation. (Attachments: # <u>1</u> Exhibit A) (Sugarman, Halye) (Entered: 04/04/2005)
04/04/2005	<u>51</u>	Proposed Findings of Fact by Metro-Boston Broadcasting, Incorporated, Metro-Boston Broadcasting, Incorporated. (Attachments: # <u>1</u> Exhibit A and B)(Bartenhagen, Erik) (Entered: 04/04/2005)
04/11/2005	<u>52</u>	Judge Richard G. Stearns : Electronic ORDER entered granting <u>49</u> Motion for Extension of Time (Flaherty, Elaine) (Entered: 04/11/2005)
	<u>53</u>	

06/03/2005		Motions terminated: 38 MOTION in Limine filed by Fafard Real Estate & Development Corporation, Per RGS. (Flaherty, Elaine) (Entered: 06/03/2005)
06/09/2005	●	Electronic Clerk's Notes for proceedings held before Judge Richard G. Stearns : Hearing re: Final Arguments after non-jury trial held on 6/9/2005. Attys. Upton and Sugarman present for the pltf. Attys. Berman and Bartenhagen present for the deft. After arguments by counsel, the matter is taken "under advisement". (Court Reporter Nancy Eaton.) (Johnson, Mary) Modified on 6/10/2005 (Johnson, Mary). (Entered: 06/10/2005)
08/26/2005	52	Judge Richard G. Stearns : ORDER entered. FINDINGS OF FACT AND CONCLUSIONS OF LAW AFTER A TRIAL WITHOUT JURY, ENTERED.(Flaherty, Elaine) (Entered: 08/26/2005)
08/29/2005	53	Judge Richard G. Stearns : Electronic ORDER entered. JUDGMENT in favor of defendant, METRO-BOSTON BROADCASTING,INC. as against plaintiff.(Johnson, Mary) (Entered: 08/29/2005)
09/06/2005	54	Judge Richard G. Stearns : Electronic ORDER VACATING JUDGMENT entered. (Johnson, Mary) (Entered: 09/06/2005)
09/06/2005	●	NOTICE of Status Conference: Status Conference set for 9/19/2005 04:00 PM in Courtroom 21 before Judge Richard G. Stearns. (Johnson, Mary) (Entered: 09/06/2005)
09/20/2005	55	MOTION for Entry of Judgment under Rule 54(b) or <i>Alternatively to Sever Complaint from Counterclaim</i> by Metro-Boston Broadcasting, Incorporated, Metro-Boston Broadcasting, Incorporated.(Bartenhagen, Erik) (Entered: 09/20/2005)
09/20/2005	56	MEMORANDUM in Support re 55 MOTION for Entry of Judgment under Rule 54(b) or <i>Alternatively to Sever Complaint from Counterclaim</i> filed by Metro-Boston Broadcasting, Incorporated, Metro-Boston Broadcasting, Incorporated. (Bartenhagen, Erik) (Entered: 09/20/2005)
09/20/2005	57	AFFIDAVIT in Support of <i>Defendant's Motion for Entry of Separate Judgment on Complaint or, Alternatively, to Sever Complaint from Counterclaim.</i> (Bartenhagen, Erik) (Entered: 09/20/2005)

09/22/2005	●	Clerk's Notes for proceedings held before Judge Richard G. Stearns : Status Conference held on 9/22/2005 attended by trial counsel to discuss counterclaims and post-trial motions. (Court Reporter James Gibbons.) (Zierk, Marsha) (Entered: 09/22/2005)
09/26/2005	●58	MOTION to Amend <i>Motion Of Fafard Real Estate And Development Corp. To Reconsider And Amend Findings</i> by Fafard Real Estate & Development Corporation.(Bennett, Charles) (Entered: 09/26/2005)
09/26/2005	●59	MEMORANDUM in Support re 58 MOTION to Amend <i>Motion Of Fafard Real Estate And Development Corp. To Reconsider And Amend Findings</i> filed by Fafard Real Estate & Development Corporation. (Bennett, Charles) (Entered: 09/26/2005)
10/03/2005	●60	MEMORANDUM in Opposition re 55 MOTION for Entry of Judgment under Rule 54(b) <i>or Alternatively to Sever Complaint from Counterclaim</i> filed by Fafard Real Estate & Development Corporation. (Folkman, Theodore) (Entered: 10/03/2005)
10/07/2005	●61	MOTION for Extension of Time to October 18, 2005 to To Oppose Farfard's Motion To Reconsider and Amend Findings by Metro-Boston Broadcasting, Incorporated.(Bartenhagen, Erik) (Entered: 10/07/2005)
10/11/2005	●	Judge Richard G. Stearns : ElectronicORDER entered granting 61 Motion for Extension of Time (Flaherty, Elaine) (Entered: 10/11/2005)
10/18/2005	●62	Opposition re 58 MOTION to Amend <i>Motion Of Fafard Real Estate And Development Corp. To Reconsider And Amend Findings</i> filed by Metro-Boston Broadcasting, Incorporated. (Berman, Kenneth) (Entered: 10/18/2005)
10/24/2005	●63	Judge Richard G. Stearns : ORDER entered. MEMORANDUM AND OPINION on Defendant Fafard Real Estate & Development Corporation's Motion to Reconsider and Amend Findings, ENTERED.(Flaherty, Elaine) (Entered: 10/24/2005)
11/01/2005	●64	ADDENDUM re 55 MOTION for Entry of Judgment under Rule 54(b) <i>or Alternatively to Sever Complaint from Counterclaim : Request For Ruling On Defendant's Motion for</i>

		<i>Entry of Judgment under Rule 54(b) or Alternatively to Sever Complaint from Counterclaim</i> filed by Metro-Boston Broadcasting, Incorporated. (Berman, Kenneth) (Entered: 11/01/2005)
11/22/2005	<u>65</u>	MOTION for Summary Judgment by Fafard Real Estate & Development Corporation.(Upton, Jeffrey) (Entered: 11/22/2005)
11/22/2005	<u>66</u>	MEMORANDUM in Support re <u>65</u> MOTION for Summary Judgment filed by Fafard Real Estate & Development Corporation. (Upton, Jeffrey) (Entered: 11/22/2005)
11/22/2005	<u>67</u>	AFFIDAVIT in Support re <u>65</u> MOTION for Summary Judgment filed by Fafard Real Estate & Development Corporation. (Upton, Jeffrey) (Entered: 11/22/2005)
11/22/2005	<u>68</u>	STATEMENT of facts <i>in Support of Motion for Summary Judgment</i> . (Attachments: # <u>1</u> # <u>2</u> # <u>3</u> # <u>4</u> # <u>5</u> # <u>6</u>)(Upton, Jeffrey) (Entered: 11/22/2005)
12/06/2005	<u>69</u>	Assented to MOTION for Extension of Time to January 13, 2006 to serve its opposition to plaintiff's motion for summary judgment by Metro-Boston Broadcasting, Incorporated. (Bartenhagen, Erik) (Entered: 12/06/2005)
12/08/2005		Judge Richard G. Stearns : Electronic ORDER entered granting <u>69</u> Motion for Extension of Time (Flaherty, Elaine) (Entered: 12/08/2005)
01/13/2006	<u>70</u>	Opposition re <u>65</u> MOTION for Summary Judgment [<i>Oral Argument Requested</i>] filed by Metro-Boston Broadcasting, Incorporated, Metro-Boston Broadcasting, Incorporated. (Bartenhagen, Erik) (Entered: 01/13/2006)
01/13/2006	<u>71</u>	STATEMENT of facts. (Bartenhagen, Erik) (Entered: 01/13/2006)
01/13/2006	<u>72</u>	Response by Metro-Boston Broadcasting, Incorporated, Metro-Boston Broadcasting, Incorporated <i>to Fafard's Statement of Facts</i> . (Bartenhagen, Erik) (Entered: 01/13/2006)
01/13/2006	<u>73</u>	AFFIDAVIT of Erik P. Bartenhagen in Opposition re <u>65</u> MOTION for Summary Judgment filed by Metro-Boston Broadcasting, Incorporated, Metro-Boston Broadcasting, Incorporated. (Attachments: # <u>1</u> Exhibits A-H)(Bartenhagen, Erik) (Entered: 01/13/2006)

01/27/2006	<u>74</u>	MOTION to Strike <i>Exhibit G to the Affidavit of Erik P. Barthenhagen in Opposition to Fafard's Motion for Summary Judgment</i> by Fafard Real Estate & Development Corporation. (Upton, Jeffrey) (Entered: 01/27/2006)
02/03/2006	<u>75</u>	MOTION to Dismiss <i>Renewed Special Motion To Dismiss And For Mandatory Award Of Fees And Costs</i> by Metro-Boston Broadcasting, Incorporated. (Berman, Kenneth) (Entered: 02/03/2006)
02/03/2006	<u>76</u>	MEMORANDUM in Support re <u>75</u> MOTION to Dismiss <i>Renewed Special Motion To Dismiss And For Mandatory Award Of Fees And Costs</i> filed by Metro-Boston Broadcasting, Incorporated. (Berman, Kenneth) (Entered: 02/03/2006)
02/09/2006	<u>77</u>	Opposition re <u>74</u> MOTION to Strike <i>Exhibit G to the Affidavit of Erik P. Barthenhagen in Opposition to Fafard's Motion for Summary Judgment</i> filed by Metro-Boston Broadcasting, Incorporated. (Berman, Kenneth) (Entered: 02/09/2006)
02/17/2006	<u>78</u>	Opposition re <u>75</u> MOTION to Dismiss <i>Renewed Special Motion To Dismiss And For Mandatory Award Of Fees And Costs</i> filed by Fafard Real Estate & Development Corporation. (Attachments: # <u>1</u>) (Upton, Jeffrey) (Entered: 02/17/2006)
02/23/2006		Electronic NOTICE of Hearing re motions hearing :Hearing set for 4/27/2006 02:30 PM in Courtroom 21 before Judge Richard G. Stearns. To be heard: Pltf's Motion for SJ (#65), and Deft's Motion to Dismiss (#75). (Johnson, Mary) (Entered: 02/23/2006)
03/14/2006		Electronic NOTICE OF RESCHEDULING: "due to a conflict, the hearing presently scheduled for April 27, 2006 is RE-SCHEDULED to THURSDAY, APRIL 6, 2006 AT 10:00 A.M." SO ORDERED. R. G. Stearns, USDJ. (Johnson, Mary) Modified on 3/14/2006 (Johnson, Mary). (Entered: 03/14/2006)
03/14/2006		Electronic NOTICE OF RESCHEDULING: "the motions hearing, re-scheduled on this date to Thursday, April 6, 2006, is being moved to FRIDAY, APRIL 7, 2006 at 10:00 A.M. before Stearns, DJ." M. Johnson, Deputy Clerk. (Johnson, Mary) Modified on 3/14/2006 (Johnson, Mary). (Entered: 03/14/2006)

04/07/2006		Electronic Clerk's Notes for proceedings held before Judge Richard G. Stearns : Motion Hearing held on 4/7/2006 re <u>65</u> MOTION for Summary Judgment filed by Fafard Real Estate & Development Corporation,, <u>74</u> MOTION to Strike <i>Exhibit G to the Affidavit of Erik P. Barthenhagen in Opposition to Fafard's Motion for Summary Judgment</i> filed by Fafard Real Estate & Development Corporation,, <u>75</u> MOTION to Dismiss <i>Renewed Special Motion To Dismiss And For Mandatory Award Of Fees And Costs</i> filed by Metro-Boston Broadcasting, Incorporated,, <u>55</u> MOTION for Entry of Judgment under Rule 54(b) <i>or Alternatively to Sever Complaint from Counterclaim</i> filed by Metro-Boston Broadcasting, Incorporated. Atty. Upton present for the pltf. Atty. Berman present for the deft. After hearing, the Court rules as follows: Motion #65 is allowed as to all three counterclaims; Motion #55 is MOOT; Motion #74 is MOOT; and Motion #75 is DENIED. Counsel are requested by the Court to file a Joint Proposed Form of Judgment for the Court's signature. (Court Reporter James Gibbons.) (Johnson, Mary) Modified on 4/7/2006 (Johnson, Mary). (Entered: 04/07/2006)
04/07/2006	●	Judge Richard G. Stearns : Electronic ORDER entered finding as moot <u>55</u> Motion for Entry of Judgment under Rule 54(b), granting <u>65</u> Motion for Summary Judgment, finding as moot <u>74</u> Motion to Strike, denying <u>75</u> Motion to Dismiss. (Johnson, Mary) (Entered: 04/07/2006)
04/28/2006	●79	Judge Richard G. Stearns : ORDER entered. JUDGMENT. "It is Ordered and Adjudged that plaintiff's Complaint and Defendant's counterclaims are each dismissed on the merits." (Johnson, Mary) Modified on 5/1/2006 (Johnson, Mary). (Entered: 05/01/2006)
05/26/2006	●80	NOTICE OF APPEAL as to <u>79</u> Judgment by Fafard Real Estate & Development Corporation. \$ 455 Receipt Number 72746 NOTICE TO COUNSEL: A Transcript Report/Order Form, which can be downloaded from the First Circuit Court of Appeals web site at http://www.ca1.uscourts.gov/clerks/transcript.htm MUST be completed and submitted to the Court of Appeals, filed. Appeal Record due by 6/15/2006. (Flaherty, Elaine) (Entered: 05/30/2006)
06/09/2006	●81	NOTICE OF CROSS APPEAL as to <u>79</u> Judgment by Metro-

	Boston Broadcasting, Incorporated. Filing fee \$ 455 receipt #73032 Appeal Record due by 6/29/2006. (Flaherty, Elaine) (Entered: 06/20/2006)
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